

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Misuse of Internet Protocol (IP) Captioned
Telephone Service

CG Docket No. 13-24

Telecommunications Relay Services and
Speech-to-Speech Services for Individuals
with Hearing and Speech Disabilities

CG Docket No. 03-123

REPLY COMMENT BY MEZMOCORP (DBA INNOCAPTION)

MezmoCorp (dba InnoCaption) (“InnoCaption” or “Company”) respectfully submits these brief reply comments in response to the Further Notice of Proposed Rulemaking in the above captioned proceedings.¹

**A. THE COMMISSION SHOULD IMMEDIATELY ADJUST THE INTERIM
RATES UNTIL A MORE PERMANENT METHODOLOGY IS ESTABLISHED**

InnoCaption strongly believes the Commission should freeze the IP-CTS rate at \$1.9468 until a more permanent rate methodology is established.² The current interim rates are “barely sustainable”³ and are already “placing tremendous economic pressure on providers”.⁴ While the five IP-CTS providers’ proposals regarding the implementation of a permanent rate methodology

¹ *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing Loss and Speech Disabilities*, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 18-79 (June 8, 2018) (“Order”) (“FNPRM”)

² See MezmoCorp (dba InnoCaption) Ex Parte Presentation, CG Docket Nos 13-24 and 03-123 at 7; See also Comments of Sprint Corporation., CG Docket Nos. 13-24 and 03-123, at 20 (September 17, 2018) (“Sprint Comments”).

³ See Initial Comments of ClearCaptions, LLC., CG Docket Nos. 13-24 and 03-123, at 3 (September 17, 2018) (“ClearCaptions Comments”).

⁴ See Sprint Comments at 20; See Generally MezmoCorp Comments

differ, there is agreement on the record that the second year interim rate of \$1.58 is incredibly problematic.⁵ The Commissions failure to adjust the interim rates will increase the likelihood that some providers will be forced to reduce the quality of service to cut costs, or exit the market entirely.⁶

B. A TIERED RATE STRUCTURE IS THE MOST APPROPRIATE METHOD TO ALIGN RATES WITH PROVIDER COSTS

InnoCaption remains supportive of the Commissions efforts to align IP-CTS rates with the providers actual reasonable costs of providing service.⁷ InnoCaption recognizes this cannot be accomplished through a unitary rate or a weighted average industry rate structure.⁸ Therefore, InnoCaption supports ClearCaptions *4 Tier Model* solution.⁹ We believe a tiered rate structure which accounts for the providers actual costs of providing the service¹⁰ will eliminate excessive

⁵ See Comments of Caption Call, LLC., CG Docket Nos. 13-24 and 03-123, at 66 (September 17, 2018) (“Caption Call Comments”); Petition For Clarification, Or In The Alternative, Reconsideration, Sprint Corporation CG Docket Nos. 13-24 and 03-123, at 13-14 (July 9, 2018) (“Sprint Petition”); Notice of Ex Parte, Hamilton Relay CG Docket Nos. 13-24 and 03-123, at 4 (May 24, 2018) (“an additional rate cut to \$1.58 per minute, as proposed in the draft item, would create serious market disruption and likely would adversely affect quality and availability of service”) (“Hamilton Ex Parte”); ClearCaptions Comments at 11; MezmoCorp Comment at 3

⁶ Comments of Hamilton Relay, Inc. at 4, CG Docket Nos. 13-24, 03-123 (Sept. 7, 2018) (“Hamilton Comments 9/7/18”); CaptionCall Comments at 67

⁷ MezmoCorp Comments at 3

⁸ See Sprint Comment at 17 (explaining “mathematically, providers that are able to leverage economies of scale will have costs that are below the weighted average, whereas smaller providers will have costs that exceed the weighted average.”); See also ClearCaptions Comments at 2 (“providers with different scale have different cost structures and that the use of an industry weighted average cost to set a single tier rate is harmful to the industry and to consumers”)

⁹ Notice of Ex Parte, ClearCaptions, LLC., CG Docket Nos. 13-24 and 03-123, at 5 (December 20, 2017) (“ClearCaptions Ex Parte”)

¹⁰ See Sprint Comments at 15 (stating that a tiered rate structure must “ensure that IP CTS providers are compensated for all reasonable costs of providing service”).

profit margins,¹¹ and ensure the IP-CTS marketplace remains competitive,¹² without the risk of harming the IP-CTS users.

C. SETTING A SEPARATE COMPENSATION RATE FOR ASR IS PREMATURE

InnoCaption concurs with the comments from the other providers explaining that setting a separate rate for ASR at this juncture is premature.¹³ In the event the Commission determines a separate rate for ASR is appropriate, the cost of providing ASR-only captions must be established before the rate can be set. Those costs cannot be determined without cost data from providers regarding implementation of ASR technology.¹⁴ Accordingly, until there is evidence in the record regarding provider costs associated with providing ASR-only IP-CTS services, the Commission should not set a separate compensation rate for ASR-only IP-CTS.

D. THE COMMISSION SHOULD CONTINUE TO ALLOW SELF-CERTIFICATION OF IP-CTS USERS

Self-certification regarding eligibility to use IP-CTS services is the most functionally equivalent manner of enabling “individuals who need and will immediately benefit from this service to receive it [telecommunications access] without a separate, administrative trip to their hearing health professional.”¹⁵ This process of self-certification for potential users to have access

¹¹ ClearCaptions Comment at ii

¹² ClearCaptions Comment at 4

¹³ See Petition For Clarification, Or In The Alternative, Reconsideration, Sprint Corporation CG Docket Nos. 13-24 and 03-123, at 13-14 (July 9, 2018) (“Sprint Petition”). (“the Commission should more carefully consider the costs associated with ASR-assisted CTS and IP CTS”); See Also: ClearCaptions Comments at 22; CaptionCall Comments at 85-87; Hamilton Comments at 6.

¹⁴ Sprint Petition at 13

¹⁵ Comments of Hearing Loss Association of America (HLAA) Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI) National Association of the Deaf (NAD) Association of Late-Deafened Adults (ALDA) Cerebral Palsy and Deaf Organization (CPADO) American Association of the Deaf-Blind (AADB) Deaf Seniors of America (DSA) California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (CCASDHH) Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN) Deaf/Hard of Hearing Technology Rehabilitation Engineering Research Center (DHH-RERC) Rehabilitation Engineering Research Center on Universal Interface &

to IP-CTS services should not be altered, especially where the record does not indicate any actual evidence of intentional misuse by IP-CTS users.¹⁶ Burdening IP-CTS users by requiring them to spend time and money to have a third party determine their eligibility, risks preventing legitimate IP-CTS users from accessing the services, services they are legally entitled to.¹⁷ The imposition of additional requirements is likely to be especially harmful to the access of potential users with limited mobility or other disabilities, is likely to ultimately have “a profound chilling effect on legitimate IP-CTS use.”¹⁸

A recent study, cited on the record by the American Academy of Audiology,¹⁹ found that out of the pool of individuals “who indicated their hearing from ‘a little trouble hearing’ to being ‘deaf,’ 12.9 million (32.2%) had never seen a clinician for hearing problems and 11.1 million (28.0%) had never had their hearing tested.”²⁰ This data supports the assertion that requiring a third party certification, even from an audiologist, would cause qualified IP-CTS users not having access to IP-CTS which, for many, is life changing technology.

InnoCaption supports the Commission’s goal of ensuring IP-CTS services are administered efficiently and effectively. However, this goal should not be at the cost of sacrificing functional equivalence. As Sprint said:

“Functional equivalence (...) does not mean that a user can only use IP CTS as a last resort after all other technologies have been exhausted. That approach would require the

Information Technology Access (IT-RERC), CG Docket Nos. 13-24 and 03-123, at 10-11 (September 17, 2018) (“Joint Consumer Comments”).

¹⁶ See Sprint Comments at 22; Consumer Comments at iv, 11; CaptionCall Comments at 2; Hamilton Comments at 16.

¹⁷ 47 U.S.C. § 225(b)(1), (a)(3)

¹⁸ Joint Consumer Comment at 10-11

¹⁹ See *generally* Comments of the American Academy of Audiology, CG Docket Nos. 13-24 and 03-123, (September 7, 2018).

²⁰ Mahboubi H, Lin HW & Bhattacharyya N (2018). Prevalence, characteristics, and treatment patterns of hearing difficulty in the United States. *JAMA Otolaryngology Head and Neck Surgery*, 144:1, 65-70.

<https://jamanetwork.com/journals/jamaotolaryngology/article-abstract/2664072>.

use of the most limited tool possible instead of the most functionally equivalent. Indeed, the proposed approach is analogous to requiring a person demonstrate that he or she is incapable of using a walker in order to have access to a wheelchair. Moreover, the Commission's proposal would impose a burden on the hard-of-hearing and deaf community that hearing individuals are not required to bear in order to obtain the equipment or accessories they need to use a telephone."²¹

At InnoCaption, one of our fundamental corporate values is that we do not tell users what their accessibility needs are. The user is the one who tell us what they need. These values are reflected in our marketing, in our outreach, in the way we interact with the community, our users, and one another. Proposing alternative eligibility requirements to self-certification would contradict these values. Accordingly, InnoCaption is opposed to any eligibility requirements which would place additional burdens on users beyond the burdens experienced by a hearing user obtaining a phone, or an App. We strongly urge the Commission to continue to allow users to self-certify their need for IP-CTS services.

CONCLUSION

InnoCaption appreciates opportunity to submit reply comments in these proceedings and respectfully requests that the Commission: (1) adjust the interim rates by implementing a rate freeze; (2) implement a tiered rate system which includes a reasonable rate for new and emerging providers; (3) reject setting a separate rate for ASR-only IP-CTS; and (4) continue to permit IP-CTS users to self-certify their need for the service.

Please do not hesitate to contact the undersigned with any questions you may have.

Respectfully Submitted,

/s/ Cristina O. Duarte
Director of Regulatory Affairs
MezmoCorp (dba InnoCaption)

²¹ Sprint Comments at 22